

Decision No. 22665

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SOUTHERN COUNTIES GAS COMPANY
OF CALIFORNIA, a corporation, for
a certificate of public convenience
and necessity under Section
50 of the Public Utilities Act,
for authority to exercise franchise
acquired from the City of Los
Angeles by Part Five of Article
XXXIII of the Charter of the City
of Los Angeles.

ORIGINAL

Application No. 20984

LeRoy M. Edwards and O. C. Sattinger, by
O. C. Sattinger, for Applicant.

Ray L. Chesebro, City Attorney, and Frederick
von Schrader, Assistant City Attorney,
for City of Los Angeles.

BY THE COMMISSION:

O P I N I O N

In this application, Southern Counties Gas Company of California asks that the Commission make its order granting to applicant a certificate declaring that present and future public convenience and necessity require, and will require, the exercise by applicant of the rights, privileges and franchise granted to it by and under Part Five of Article XXXIII of the Charter of the City of Los Angeles, Los Angeles County, California, a copy of which article is on file in this proceeding as Exhibit "B".

The above application was heard in Los Angeles on March 22, 1937, before Examiner W. R. Williams, together with Application No. 20983 (Los Angeles Gas and Electric Corporation) and Application

No. 20994 (Southern California Gas Company), which last numbered applications were similar in character.

The evidence shows that on January 27, 1937 the President of the Council of The City of Los Angeles and the City Clerk of the City of Los Angeles issued their certificate (Exhibit No. 2 in Application No. 20983) that the gas franchise granted applicant by Part Five of Article XXXIII of the Charter of the City of Los Angeles became effective January 20, 1937.

The franchise authorizes applicant, (a) to supply the City of Los Angeles and its inhabitants with gas for all purposes other than light; (b) to conduct, convey, transfer and distribute gas for all other purposes other than light throughout the City, and (c) to transport gas for use outside the City, and to those ends to maintain, operate, replace, repair and remove all lines and appurtenances pertaining to the applicant's gas system in existence at the date when said grant took effect, and to construct, maintain, operate, replace, repair and remove additional lines and appurtenances in, under and along the streets throughout the City of Los Angeles, as such streets now, or may hereafter, exist, and to use the streets in the manner and to the extent necessary for such purposes.

The franchise grant which is the subject matter of this proceeding is made in lieu of all other franchises, rights or privileges owned or claimed by applicant for supplying, distributing, transmitting, or transporting gas within the limits of the City of Los Angeles, as such limits now or may hereafter exist except for supplying light under section 19 of Article XI of the Constitution of this state as said section existed prior to the amendment thereof adopted October 10, 1911, and particularly in lieu of any and all claims of any right under said constitutional provision to supply gas for heat or power or for any purpose other than light. As a

condition precedent to the franchise becoming effective applicant had to surrender all other franchise rights which it may have had to use the streets of the City of Los Angeles to distribute gas, save and except its right, under said constitutional franchise, to use the streets to distribute gas for lighting. It also had to comply with some other conditions precedent.

The franchise provides that applicant shall pay to the City of Los Angeles,

(a) two per cent (2%) of the gross receipts of said grantee arising in each calendar year, or fractional calendar year, during the life of this grant, from the use, operation or possession thereof; provided, however, that such payment shall in no event be less than one per cent (1%) of the gross receipts of said grantee, realized during such calendar year, or fractional calendar year, from the rendition of service to consumers within the territory hereby covered; and

(b) A sum computed at the rate per mile per year provided for in the following schedule, as and for the sole and exclusive payment to be made under this grant for each mile of pipe line and for the right to transport gas through the same, within the limits of the City and devoted exclusively to the transportation of gas for use outside the City, in service on the first day of July in each calendar year during such life, or at the middle of any fractional year at the end of, and during, such life:

SCHEDULE

| <u>Inside Diameter of Pipe</u> | <u>Rate Per Mile Per Year</u> |
|------------------------------------|-----------------------------------|
| 2 inches | \$52.80 |
| 3 inches | 79.20 |
| 4 inches | 105.60 |
| 5 inches | 132.00 |
| 6 inches | 159.40 |
| 8 inches | 211.20 |
| 10 inches | 264.00 |
| 12 inches | 316.80 |
| 16 inches | 422.40 |
| 20 inches | 528.00 |
| 24 or more inches | 633.60 |

The franchise contains several terms and conditions which we deem it not necessary to mention specifically. For such terms and conditions reference is here made to said Exhibit B.

Applicant's evidence shows that the franchise granted by said Article XXXIII is city-wide in territorial scope, without limitation upon area or territory. Exhibit A filed in this proceeding is a map of the City of Los Angeles and among other things shows the area now served by applicant. Large portions of the City are not now served by applicant, but by Los Angeles Gas and Electric Corporation or by Southern California Gas Company. It is not the policy of the Commission to grant overlapping certificates as proposed in this application and in applications numbers 20983 and 20994. We will, therefore, at this time grant applicant a certificate of public convenience and necessity to exercise the rights granted by said franchise in the territory in which it now operates as shown in said Exhibit A. If hereafter applicant desires to operate in other areas in the City of Los Angeles it should obtain permission to do so.

Applicant has stipulated that it, its successors or assigns will never claim before the Railroad Commission of the State of California, or before any other court, or other public body, any value for the aforementioned franchise in excess of the actual cost thereof, which said actual cost, exclusive of the Railroad Commission's fee, was nothing.

O R D E R

Southern Counties Gas Company of California, having applied to the Railroad Commission of the State of California for an order granting to applicant a certificate declaring that public convenience and necessity require, and will require, the exercise by applicant of the rights, privileges and franchise granted to it by and under

Part Five of Article XXXIII of the Charter of The City of Los Angeles, more particularly referred to in the foregoing opinion; a public hearing having been held; the matter having been submitted; the Commission having considered the matter and being of the opinion that the application should be granted to the extent indicated in this order, therefore,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY ORDERS AND DECLARES that public convenience and necessity require, and will require, the exercise by Southern Counties Gas Company of California of the rights granted to it by and under Part Five of Article XXXIII of the Charter of The City of Los Angeles, in the territory in which it now operates and which is shown in said Exhibit A and that a certificate of public convenience and necessity therefor is hereby granted to Southern Counties Gas Company of California.

It is hereby further ordered and declared that the effective date of this order is the date hereof.

Dated at San Francisco, California, this 12th day of April, 1937.

Malcolm Mac
Leon C. Whelan
Frederic R. Dink
Harold W. Kline
Ray & Quincy
Commissioners.